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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PORLAND DIVISION

VICKY SILVA,

Portland consumer and guardian
of a minor with mental impairments,

Plaintiff,

v.

VERIZON WIRELESS aka

Rural Cellular Corporation, a
Minnesota Corporation, and **VANTAGE
SOURCING, LLC**, a Tennessee Limited
Liability Company,

Defendants.

Case No. 3:14-cv-535

**ILLEGAL BUSINESS PRACTICES
COMPLAINT**

15 USC § 1692 *et seq.*

28 USC § 2201(a)

ORS 646.636

ORS 646.638

Demand for Jury Trial

ILLEGAL BUSINESS PRACTICES COMPLAINT - Page 1

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PO Box 2316
Portland, Oregon 97208
Office 503-274-4252

1.

BACKGROUND

On *April 18, 2013*, in Gresham, Oregon, Verizon sold Ms. Silva a new cell phone.

2.

Verizon promised Ms. Silva the phone had data block for everything but texting. Verizon knew its phone would be used by Ms. Silva's grandson.

3.

Verizon's phone did not have data block and Ms. Silva's grandson gained access to pornographic images without her permission or knowledge.

4.

In *August 2013*, Ms. Silva learned the phone did not have data block and that her grandson had accessed pornography. She immediately disabled the phone.

5.

Ms. Silva complained to Verizon about its false representations regarding its phone's data block features, and of the resulting unauthorized fees. On *September 19, 2013*, Verizon admitted it was at fault and promised to fix the problem.

6.

However, Verizon chose to string Ms. Silva along with broken promises and lies, with intent to profit on its false representations and unauthorized fees.

7.

As of the date of this Complaint, Verizon turned Ms. Silva over to a third party debt collector, Vantage, who now demands payment of the unauthorized fees.

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8.

JURISDICTION AND THE PARTIES

This Honorable Court has jurisdiction over this civil action pursuant to 28 USC § 1332 because true diversity of citizenship exists between the Parties and the amount in controversy exceeds \$75,000. Jurisdiction also exists pursuant to 28 USC §§ 1331 and 1337 because the FDCPA is federal law and Ms. Silva's state law claim against Verizon forms part of the same case and controversy as her FDCPA claim against Vantage.

9.

This is an action for actual damages, statutory damages, punitive damages, declaratory relief, attorney fees and costs brought by Vicky Silva (Ms. Silva) against Verizon Wireless aka Rural Cellular Corporation (Verizon) and Vantage Sourcing, LLC (Vantage).

10.

Ms. Silva lived at her home in Gresham at all times and is a "person" as defined at ORS 646.605(4).

11.

Ms. Silva is a "consumer" as defined by the FDCPA 15 USC § 1692a(3) because she is a natural person allegedly obligated to pay a consumer debt to Verizon with account number 0571015195-00001.

12.

Verizon Wireless aka Rural Cellular Corporation (Verizon) is a Minnesota Corporation based in Basking Ridge, New Jersey and operates its wireless consumer communications business in Oregon at all times.

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13.

Verizon provides wireless consumer communications services in Oregon and is a “person” as defined at ORS 646.605(4).

14.

Ms. Silva’s alleged obligation to pay Verizon is a “debt” as defined by the FDCPA 15 USC § 1692a(5) because it arises out of a consumer transaction, namely a personal cell phone and service plan.

15.

Vantage is a Limited Liability Company based in Tennessee, collecting debt in Oregon under license number 49537.

16.

Vantage is a “debt collector” as defined by the FDCPA 15 USC § 1692a(6) as it regularly represents to consumers that it is attempting to collect a debt on behalf of another, its principal purpose is providing debt collection services to creditors, and it regularly communicates with consumers regarding defaulted debt, which communications include use of the United States mail system.

17.

Venue is proper in this district because the cell phone contract was entered here, Ms. Silva lives here, Verizon does business here, and Vantage collects debt here.

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18.

VERIZON'S FALSE REPRESENTATIONS

On or around April 18, 2013, at its store in Gresham, Oregon, Verizon offered to sell Ms. Silva a cell phone and service plan.

19.

Verizon represented to Ms. Silva that she was purchasing a cell phone and service plan that contained data block. [See Exhibit 1]

20.

Specifically, Verizon represented to Ms. Silva that its phone had data block for everything but texting.

21.

Ms. Silva relied on Verizon's representation and purchased the phone for her young grandson's personal family use. [See Exhibit 1]

22.

Verizon's representations about the data block features of its phone were material and false because Ms. Silva purchased the phone based on Verizon's representations and the phone did not in fact block data usage.

23.

Upon information and belief, Verizon promotes the intentional misrepresentation of data block features in hopes of generating profits based on unauthorized fees.

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24.

VERIZON STRINGS MS. SILVA ALONG

Ms. Silva complained to Verizon about its unauthorized fees resulting from its false representations regarding its phone's data block features.

25.

Verizon admitted it was at fault and promised to fix the problem on five occasions. [See Exhibit 2]

26.

Specifically, Verizon told Ms. Silva that she was entitled to a full credit of the balance it was collecting. [See Exhibit 2]

27.

Verizon also promised it would not disrupt Ms. Silva's phone service.

28.

On various occasions, Verizon promised it would promptly get back to Ms. Silva.

29.

As it turned out, Verizon was just stringing Ms. Silva along with broken promises and lies, in hopes it could eventually bully her into paying its unauthorized fees.

30.

Ms. Silva tried to resolve this matter with Verizon without the need for a formal complaint.

31.

Having no other choice, Ms. Silva must now prosecute Verizon to make things right.

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32.

VANTAGE'S UNLAWFUL DEBT COLLECTION

Verizon eventually turned Ms. Silva over to a third party debt collector (Vantage) to further bully her into paying its unauthorized fees.

33.

In December 2013, Vantage sent Ms. Silva a collection letter dated December 20, 2013, demanding payment of \$828.72. [See Exhibit 3]

34.

Vantage's December 20, 2013 collection letter falsely represented the amount of Ms. Silva's alleged debt to Verizon because the amount included unauthorized fees she did not owe.

35.

In correspondence dated January 15, 2014, Ms. Silva's attorney requested Vantage contact him to discuss the matter.

36.

As of the date of this Complaint, Vantage has refused to communicate with Ms. Silva's attorney.

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37.

REQUEST FOR COURT ORDER

Verizon's illegal business practices and Vantage's unlawful debt collection cause Ms. Silva anxiety and damage her reputation.

38.

Ms. Silva respectfully requests that this Honorable Court issue an order recognizing that she does not owe Verizon or Vantage a debt resulting from unauthorized fees.

39.

FAIR COMPENSATION

As a direct result of Verizon's illegal business practices as alleged above, Ms. Silva has suffered actual damages, including economic loss of money Verizon collected to pay its unauthorized fees, hours of time off work, expenses, and severe and ongoing frustration, anxiety and other emotional harm to be proved at trial.

40.

As a direct result of Vantage's unlawful debt collection as alleged above, Ms. Silva has suffered actual damages, including expenses, and severe and ongoing frustration, anxiety and other emotional harm to be proved at trial.

41.

Ms. Silva requests fair and just compensation from Verizon and Vantage in an amount to be determined by a jury.

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42.

PUNITIVE DAMAGES

Ms. Silva requests Verizon pay punitive damages in an amount to be determined by the jury.

43.

Verizon's choice to profit based on unauthorized fees gives it an unfair advantage over other phone companies that choose to follow the rules.

44.

Further, Verizon's attempt to string Ms. Silva along with broken promises and lies, in hopes it could bully her into paying its unauthorized fees, violates the standards of decency and tolerable business practices deemed acceptable in Ms. Silva's community.

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45.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(Illegal Business Practices)

(ORS 646.638)

Ms. Silva re-alleges the above paragraphs by reference.

46.

Verizon injured Ms. Silva through its willful and malicious use of illegal business practices as detailed above, specifically violating 646.608(1)(e) and (u).

47.

As a result of Verizon's willful and malicious use of illegal business practices, Ms. Silva suffered ascertainable economic loss over \$200 (e.g., \$203 collected on Sept. 23, 2013) and emotional harm, and is entitled actual damages, punitive damages, and reasonable attorney fees and costs pursuant to ORS 646.638.

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48.

SECOND CLAIM FOR RELIEF

(Unlawful Debt Collection)

(15 USC § 1692 *et seq.*)

Ms. Silva re-alleges the above paragraphs by reference.

49.

Vantage directly injured Ms. Silva through its violations of 15 USC § 1692e as alleged above, and she is entitled to recover actual damages, statutory damages, and reasonable attorney fees and costs pursuant to 15 USC § 1592k.

50.

THIRD CLAIM FOR RELIEF

(Declaratory Relief)

Ms. Silva re-alleges the above paragraphs by reference.

51.

Pursuant to ORS 646.636 and 28 USC § 2201(a), Ms. Silva is entitled to and so requests a declaratory order and judgment recognizing that she does not owe Verizon or Vantage a debt resulting from unauthorized fees. Ms. Silva requests declaratory relief so she may prospectively resolve any unfair debt collection and false credit reporting related to Verizon or Vantage.

52.

DEMAND FOR JURY TRIAL.

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WHEREFORE, Ms. Silva requests order and judgment against Verizon and Vantage as follows:

- A. For a declaratory order and judgment pursuant to ORS 646.636 and 28 USC § 2201(a) as requested in paragraph 51;
- B. For judgment awarding Ms. Silva actual damages;
- C. For judgment awarding Ms. Silva punitive damages against Verizon only;
- D. For judgment awarding Ms. Silva statutory damages against Vantage only;
- E. For judgment awarding Ms. Silva attorney fees and costs; and
- F. For such other and further relief as this Honorable Court may deem just and proper.

DATED: March 18, 2014

s/ Michael Fuller
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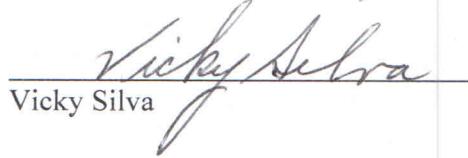
DECLARATION

I, Vicky Silva, declare the following under penalty of perjury to be used as evidence at trial:

1. I know the facts I am testifying about based on my personal knowledge.
2. I personally reviewed each of the 52 paragraphs of the attached Complaint dated March 18, 2014.
3. The information contained in the attached Complaint is true and accurate to the best of my personal knowledge.

Pursuant to 28 USC § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED: March 27, 2014



Vicky Silva

CERTIFICATE OF SERVICE

Pursuant to ORS 124.100(6), I certify that I served this document on the entities below on April 1, 2014 by causing it to be mailed to:

**Oregon Department of Justice
c/o Attorney General Ellen F. Rosenblum
1162 Court Street NE
Salem, OR 97301**

DATED: April 1, 2014

s/ Michael Fuller
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